

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Ashton Plastic Products., Inc.	:	
	:	Case No. C-1-02-529
Plaintiff	:	
	:	District Judge Susan J. Dlott
v.	:	
	:	ORDER DISMISSING AMENDED
Fusite Corporation	:	COMPLAINT WITH PREJUDICE
	:	
Defendant	:	

This matter comes before the Court on Defendant Fusite Corporation's Motion for Summary Judgment (doc. #18) and the Court's Order Granting Fusite's Motion to Amend or Vacate (doc. #23) issued on July 29, 2004. The procedural history of this case was set forth in detail in the Court's July 29, 2004 Order and will not be repeated here. In that Order, the Court vacated an earlier Order (doc. #19) permitting Ashton Plastic Products ("Ashton") to dismiss this action without prejudice. The Court found that the dismissal of Ashton's claims without prejudice would cause Fusite to suffer plain prejudice beyond the prospect of a second lawsuit. The Court then directed Ashton to reply to Fusite's motion for summary judgment or face dismissal with prejudice.

In response to the Court's July 29, 2004 Order and Fusite's Motion for Summary Judgment, Ashton stated that "continuing the summary judgment process would be a waste of time for Plaintiff, for Defendant and, most importantly, for this Court, because Plaintiff is not in a position to go forward even with a successful outcome." (Doc. #24.)

Accordingly, the Court shall **DISMISS WITH PREJUDICE** Ashton's Amended Complaint (doc. #10).

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge